

MAY 12 2006

NEBRASKA DEPARTMENT  
OF INSURANCE

CAUSE NO. A-1655

## FINDINGS OF FACT

1. Jeffrey A. Sweezey (“Respondent”) is a resident licensed insurance agent whose registered address with the Department of Insurance is 7527 Sherman Drive, Omaha, Nebraska 68134. (Ex. 2)
2. On or about October 16, 1998, Respondent applied with Petitioner for a resident insurance producer license. (Ex. 2)

3. On said application, Respondent answered "NO" to the question "have you ever been convicted of or pled nolo contendere (no contest) to any misdemeanor or felony or currently have pending misdemeanor or felony charges filed against you?" (Ex. 2)

4. Respondent failed to answer this question truthfully. Respondent was convicted of a Class I misdemeanor of Theft by Unlawful Taking in violation of Neb. Rev. Stat. § 28-511(1) in Washington County, Nebraska Criminal Case C90-359 in 1990. Respondent was sentenced to seven days in jail in addition to his court costs. (Ex. 2)

5. On or about September 4, 2002, the State of Iowa filed a Trial Information in Case No. FECR 008242 against Respondent charging him with committing one Count of Theft in the First Degree in violation of Section 714.1(2) and 714.2(1) of the Iowa Criminal Code as well as committing 16 Counts of Forgery in violation of Section 715A.2 of the Iowa Criminal Code. Respondent pled not guilty. (Ex. 2)

6. Respondent was arraigned in the District Court of Harrison County, Iowa on or about September 23, 2002 in Case No. FECR 008242. Respondent did not report the criminal prosecution and arraignment to the Nebraska Department of Insurance within thirty days of said date. (Ex. 2)

7. Affidavits of the investigating law enforcement officers revealed that Respondent had exerted undue influence over his grandmother causing her to cash in a \$55,000 annuity investment account and turn the proceeds over to Respondent. (Ex. 2)

8. In July of 2001, the full value of the annuity was surrendered, endorsed and made payable to Respondent. Respondent deposited this amount into a new checking account under his name. Respondent's grandmother was told by Respondent that he would re-invest the money. Bank records indicate that Respondent opened another annuity account in the

amount of \$25,000 with "American Equity" in Des Moines using the money obtained from his grandmother. This account was opened listing Respondent's mother as the owner of record and listing himself as beneficiary. Respondent converted proceeds to his own use. (Ex. 2)

9. According to the record before me, Respondent was placed on probation and is making restitution payments of \$200 a month to the Harrison County Iowa County Clerk's Office. (Ex. 2)

#### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4001 et seq.
2. The Department has personal jurisdiction over Respondent.
3. Respondent violated Neb. Rev. Stat. §44-4059(1)(b), Neb. Rev. Stat. §44-4065(2), Neb. Rev. Stat. §44-4028(13) and Neb. Rev. Stat. §44-4031.

#### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Insurance Producer's License be revoked. I have taken into account numerous factors in reaching this decision. I have considered counsel for the Department of Insurance's recommendation of a fine and the fact that Respondent is making restitution. Nonetheless, it appears to me that Respondent has demonstrated traits that do not belong in the business of insurance.

Respondent failed to report a prior crime and, for that matter, a crime of dishonesty, namely theft. On that basis alone, the Nebraska Department of Insurance could have rejected his application due to the nature of the crime had they had that information. The Department did not

have that opportunity because Respondent failed to disclose this information. Since Respondent did receive his insurance producer license, Respondent is expected to follow all requirements under the law, including the reporting of any criminal charges against him. He failed, once again, to do so. His failure to adhere to the tenets of the law demonstrates untrustworthiness and incompetence.


These two criminal actions involve theft and one relates directly to the business of insurance. Respondent abused his position of a financial advisor by providing "financial counseling" as a means to misappropriate.

Finally, Respondent failed to attend the hearing on April 13, 2006. Respondent had notice of the hearing but failed to show, even after a delay to the start of the proceeding. Respondent did not avail himself of his opportunity to explain the circumstances that formed the basis of the allegations contained in the Petition. Respondent did not avail himself the chance for mitigation and further demonstrated and enforced my belief that he should not hold a license to sell insurance in this state.

Therefore, it is my recommendation that Respondent's license be revoked. The Nebraska Department of Insurance will continue to retain jurisdiction over this matter.

Dated this 2<sup>nd</sup> day of May, 2006.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
Martin W. Swanson  
Hearing Officer

### CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska, Department of Insurance vs. Jeffrey A. Sweezey, Cause No. A-1655.

Dated this 12<sup>th</sup> day of May, 2006.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



L. TIM WAGNER  
Director of Insurance

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing a copy to Respondent at 7527 Sherman Drive, Omaha, Nebraska 68134, by certified mail, return receipt requested, on this 12<sup>th</sup> day of May, 2006.

